

HOUSE BILL No. 1026

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-66.5; IC 31-17-2.

Synopsis: Joint custody. Requires a court to consider whether joint legal or physical custody, or both, would be in the best interests of the child whenever the court determines child custody in dissolution of marriage cases. Requires the court to consider certain relevant factors when making the joint custody determination. Requires the court to order joint legal or physical custody, or both, whenever the court finds that the award would be in the best interests of the child. (Under current law, it is optional whether a court considers an award of joint custody.)

Effective: July 1, 1999.

Ripley

January 6, 1999, read first time and referred to Committee on Judiciary.



First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1026

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-2-66.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 66.5. "Joint custody" for purposes of IC 31-17-2-13,**
4 **IC 31-17-2-14, and IC 31-17-2-15, refers to joint legal custody or**
5 **joint physical custody, or both.**

6 SECTION 2. IC 31-17-2-8 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. **Subject to section**
8 **13 of this chapter,** the court shall determine custody and enter a
9 custody order in accordance with the best interests of the child. In
10 determining the best interests of the child, there is no presumption
11 favoring either parent. The court shall consider all relevant factors,
12 including the following:

- 13 (1) The age and sex of the child.
14 (2) The wishes of the child's parent or parents.
15 (3) The wishes of the child, with more consideration given to the
16 child's wishes if the child is at least fourteen (14) years of age.



- (4) The interaction and interrelationship of the child with:
 - (A) the child's parent or parents;
 - (B) the child's sibling; and
 - (C) any other person who may significantly affect the child's best interests.
- (5) The child's adjustment to the child's:
 - (A) home;
 - (B) school; and
 - (C) community.
- (6) The mental and physical health of all individuals involved.
- (7) Evidence of a pattern of domestic violence by either parent.
- (8) Whether an award of joint legal or physical custody, or both, would be in the best interests of the child, after considering the factors listed in section 15 of this chapter.**

SECTION 3. IC 31-17-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. The court ~~may~~ **shall** award legal **or physical** custody, **or both**, of a child jointly if the court finds that an award of joint legal **or physical** custody, **or both**, would be in the best interest of the child.

SECTION 4. IC 31-17-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. An award **solely** of joint legal custody under section 13 of this chapter does not require an equal division of physical custody of the child.

SECTION 5. IC 31-17-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. In determining whether an award of joint legal **or physical** custody, **or both**, under section 13 of this chapter would be in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that the persons awarded joint custody have agreed to an award of joint ~~legal~~ custody. The court shall also consider:

- (1) the fitness and suitability of each of the persons awarded joint custody;
- (2) whether the persons awarded joint custody are willing and able to communicate and cooperate in advancing the child's welfare;
- (3) the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age; and
- (4) whether the child has established a close and beneficial relationship with both of the persons awarded joint custody;
- (5) whether the persons awarded joint custody:
 - (A) live in close proximity to each other; and



- 1 (B) plan to continue to do so; and
- 2 (6) the nature of the physical and emotional environment in the
- 3 home of each of the persons awarded joint custody.

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